

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

UGOCHUKWU NWAUZOR, et al.,

*Plaintiffs-Appellees,*

v.

THE GEO GROUP, INC.,

*Defendant-Appellant.*

No. 22-35026

(3:17-cv-05769-RJB)

**DEFENDANT-APPELLANT GEO'S TWELFTH STATUS REPORT**

Pursuant to the Court's order on January 25, 2022, Dkt. 7, Defendant-Appellant The GEO Group, Inc., by counsel, respectfully submits this status report. The Court has stayed appellate proceedings in this case, No. 22-35026, pending the resolution of other appeals in this Court, Nos. 21-36024 and 21-36025. In those consolidated appeals, briefing concluded on June 14, 2022. *See* No. 21-36024, Dkt. 68. The case was argued and submitted to Chief Judge Murguia, Judge Fletcher, and Judge Bennett on October 6, 2022. *Id.*, Dkt. 86.

On March 7, 2023, the Ninth Circuit certified three state-law questions to the Washington Supreme Court. *Id.*, Dkt. 94. The matter was assigned Washington Supreme Court case number 101786-3. The Washington Supreme Court accepted review of the questions and briefing concluded on May 23, 2023. The Washington

Supreme Court issued its decision answering the certified questions on December 21, 2023.

The Ninth Circuit had stayed proceedings in the consolidated appeals pending its receipt of the Washington Supreme Court's answers to the certified questions. Certification Order, Dkt. 94 at 17. On the same day as the Washington Supreme Court's answer to the certified questions, December 21, 2023, the parties submitted a joint status report informing the Ninth Circuit panel of the Washington Supreme Court's decision. Dkt. 109.

On the same day that the Ninth Circuit certified the state-law questions, March 7, 2023, the Court also invited the United States to file an amicus brief “setting forth its current views on the constitutional defenses asserted by Defendant GEO Group, Inc.—intergovernmental immunity, derivative sovereign immunity, and preemption.” Dkt. 95. On January 22, 2024, the United States accepted the Court's invitation and filed an amicus brief in support of GEO. Dkt. 114. The United States stated that “[a]pplication of the state minimum wage is [] precluded by principles of preemption, and it also runs afoul of principles of intergovernmental immunity.” *Id.* at 2. Appellees filed supplemental response briefs on March 22, 2024, Dkt. 122, Dkt. 124, and the United States filed its reply brief on April 12, 2024, Dkt. 130.

On December 6, 2024, GEO filed a notice of supplemental authority apprising the Court of the recent decision in *United States v. King County*, 122 F.4th 740 (9th

Cir. 2024), in which a panel of this Court held that an attempt by a county in the state of Washington to regulate the Federal Government's use of federal contractors in operating Immigration and Customs Enforcement flights violated principles of intergovernmental immunity guaranteed by the Supremacy Clause. Dkt. 133. The Appellees each filed responses to the notice of supplemental authority on December 6, 2024. Dkt. 134, Dkt. 135.

Dated: January 10, 2025

Respectfully submitted,

s/ Michael W. Kirk

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## **CERTIFICATE OF COMPLIANCE**

I hereby certify that this status report complies with the type-volume limitations of Fed. R. App. P. 27(d)(2)(A) and Ninth Circuit Rule 27-1(d) because this status report contains 346 words and is two pages in length, excluding the parts of the status report exempted by Fed. R. App. P. 32(f).

This status report complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6) because this status report has been prepared in a proportionately spaced typeface using Microsoft Word in 14-point Times New Roman font.

Dated: January 10, 2025

s/ Michael W. Kirk

Michael W. Kirk

*Attorney for Defendant-Appellant*

### **CERTIFICATE OF SERVICE**

I hereby certify that I electronically filed the foregoing with the Clerk of Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on January 10, 2025. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

Dated: January 10, 2025

s/ Michael W. Kirk

Michael W. Kirk

*Attorney for Defendant-Appellant*